

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
WESTERN DIVISION

UNITED STATES OF AMERICA,

CR 18 50012

Plaintiff,

FACTUAL BASIS STATEMENT

vs.

NATHANIEL THOMAS WATERS,

Defendant.

The Defendant states the following facts are true, and the parties agree that they establish a factual basis for the offense to which Defendant is pleading guilty pursuant to Fed. R. Crim. P. 11(b)(3):

On October 16, 2017, shortly after 6:00 a.m., Winner Dispatch received a call of a house fire in Allen, SD. The homeowner (the defendant), Nathaniel Thomas Waters, advised law enforcement officers at the scene that he woke up to the smell of smoke and jumped out of his bedroom window. The defendant also advised Bureau of Indian Affairs Special Agent Darrell Robinson that he went to the location of where, Raymond Waters, Jr., hereinafter "Junior," was sleeping inside the same home and attempted to wake him up by pounding on the outside wall. (The defendant was outside of the trailer). Junior's charred body was later found in the rubble.

Alcohol, Tobacco, Firearms, and Explosives (ATF) Special Agent Kerri Hogendoorn investigated the fire scene. SA Hogendoorn determined the fire was

nonaccidental in nature and that the origin of the fire was in the living room, where Junior's body was found.

Forensic Pathologist Dr. Kenneth Snell conducted an autopsy of Junior's body. Dr. Snell discovered Junior suffered skull fractures and neck lacerations. Dr. Snell advised that an axe was the likely instrument caused such damage. Dr. Snell also noted there was no soot in Junior's lungs and that he was deceased prior to the fire.

On November 29, 2017, Federal Bureau of Investigation Special Agent Tyler Vose, the case agent assigned to investigate the fire and homicide of Junior, interviewed the defendant. The defendant stated that he was in his home asleep the morning of the fire. The defendant stated that prior to going to bed, Junior told the defendant something to the effect of "Uncle Tom, I really had a fun day, I really terrorized my twin brother. I really got on his nerves, didn't I?" The defendant was again questioned regarding his presence in the trailer and the likelihood that he was not in the home at the time the fire started. The defendant maintained his original October 16, 2017, story to law enforcement.

On or about October 17, 2017, the defendant called the owner of a truck that was wrecked just down the road from the house fire. The defendant asked the owner, Charles "Bamm" Brewer, whether he found and removed a green axe from the auto wreck site. Shortly after that phone call, Bamm located a bloody axe that his son, Matthew Brewer, had removed from the truck bed of the

wrecked truck. The bloody axe was tested and the blood was determined to be Juniors' blood.

On December 5, 2017, FBI SA Vose interviewed the defendant again. The defendant stated that his previous statements were [REDACTED] (meaning false) and that he was not present in the home at the time of the fire. The defendant stated that he was with Shaler Lamont and that he returned at about the time the house was on fire. The defendant admitted to SA Vose that he had lied during the prior interviews and that he had a guilty conscience.

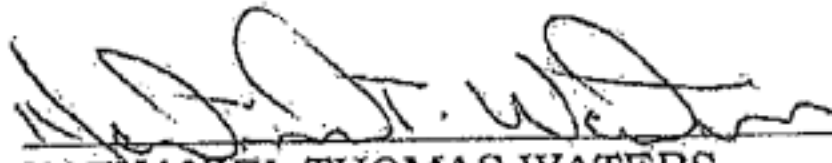
The false statement to SA Vose was material to the FBI's investigation because it directly impacted the direction of the investigation, who was being interviewed, and the content of the interviews.

1-15-19
Date


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NATHANIEL THOMAS WATERS
Defendant

1-15-19
Date


JORDAN BORDEWYK
Attorney for Defendant